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U.S. Department of Homeland Security
U.S. Citizenship and Immigration Services
Administrative Appeals Office (AAO)
20 Massachusetts Ave., N.W., MS 2090
Washington, DC 20529-2090



U.S. Citizenship
and Immigration
Services

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DATE: **MAY 03 2011** Office: TEXAS SERVICE CENTER

FILE: [REDACTED]

IN RE: Petitioner: [REDACTED]
Beneficiary: [REDACTED]

PETITION: Immigrant Petition for Alien Worker as a Member of the Professions Holding an Advanced Degree or an Alien of Exceptional Ability Pursuant to Section 203(b)(2) of the Immigration and Nationality Act, 8 U.S.C. § 1153(b)(2)


ON BEHALF OF PETITIONER:

INSTRUCTIONS:

Enclosed please find the decision of the Administrative Appeals Office in your case. All of the documents related to this matter have been returned to the office that originally decided your case. Please be advised that any further inquiry that you might have concerning your case must be made to that office.

If you believe the law was inappropriately applied by us in reaching our decision, or you have additional information that you wish to have considered, you may file a motion to reconsider or a motion to reopen. The specific requirements for filing such a request can be found at 8 C.F.R. § 103.5. All motions must be submitted to the office that originally decided your case by filing a Form I-290B, Notice of Appeal or Motion, with a fee of \$630. Please be aware that 8 C.F.R. § 103.5(a)(1)(i) requires that any motion must be filed within 30 days of the decision that the motion seeks to reconsider or reopen.

Thank you,


Perry Rhew
Chief, Administrative Appeals Office

DISCUSSION: The Director, Texas Service Center, denied the employment-based immigrant visa petition and the Administrative Appeals Office (AAO) summarily dismissed a subsequent appeal. The matter is now before the AAO on motion. The motion will be dismissed.

The petitioner seeks classification pursuant to section 203(b)(2) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1153(b)(2), as a member of the professions holding an advanced degree. The petitioner asserts that an exemption from the requirement of a job offer, and thus of an alien employment certification, is in the national interest of the United States. The director found that the petitioner qualifies for classification as a member of the professions holding an advanced degree, but that the petitioner had not established that an exemption from the requirement of a job offer would be in the national interest of the United States.

On appeal, counsel reiterated her prior assertion that the petitioner's skills could not be "easily articulated by objective factors appearing in the labor certification process" and did not address the director's specific bases for denial.¹ On January 27, 2010, the AAO summarily dismissed the appeal.

On February 25, 2010, the petitioner, through counsel, files the instant motion to reopen. Counsel now addresses the concerns set forth in the director's decision.

According to 8 C.F.R. § 103.5(a)(2), a motion to reopen must state the new facts to be provided and be supported by affidavits or other documentary evidence. According to 8 C.F.R. § 103.5(a)(3), a motion to reconsider must state the reasons for reconsideration and be supported by any pertinent precedent decisions to establish that the decision was based on an incorrect application of law or Service policy.

The most recent decision in this matter is the summary dismissal issued by the AAO on January 27, 2010. That is the decision the petitioner seeks to reopen. Nothing in the motion, however, suggests that the AAO's decision summarily dismissing the appeal was issued in error. Specifically, the petitioner has not demonstrated that the original appeal alleged any specific erroneous conclusion of law or statement of fact either initially or in a subsequent filing submitted within the 30 days period in which the petitioner was permitted to supplement the appeal or even prior to the AAO's decision dated January 27, 2010.

As the motion does not allege any error in the decision it seeks to reopen, it must be dismissed.

ORDER: The motion is dismissed.

¹ On June 8, 2010, the petitioner's employer filed a petition on the current petitioner's behalf supported by an approved alien employment certification, revealing that a waiver of that process was not necessary. The director approved that petition on November 23, 2010.